



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	02/25/00	Bill No:	AB 2602
Tax:	Sales and Use	Author:	Battin
Board Position:		Related Bills:	AB 2345 (Ducheny) AB 2348 (Ducheny) SB 1701 (Johnson)

BILL SUMMARY:

This bill would provide a sales and use tax exemption for the purchase of any tangible personal property purchased by a public or private school or community college district provided the gross receipts from the sale of that tangible personal property equals \$1,000 or more and the purchase is made with a purchase order.

ANALYSIS:

Current Law:

The existing Sales and Use Tax Law imposes a tax on the sale of, or the storage, use, or other consumption in this state of, tangible personal property, unless that property is specifically exempted by statute.

Generally, public and private school or community college districts are required to pay sales or use tax on their purchases of tangible personal property to the same extent as any other person in this state.

Proposed Law:

This bill would add Section 6361.9 to the Sales and Use Tax Law to provide a sales and use tax exemption for the purchase of any tangible personal property that is purchased by a public or private school or community college district if the gross receipts from the sale of that tangible personal property or the sales price of that tangible personal property equals \$1,000 or more and the purchase is made with a purchase order.

This bill would also provide an appropriation from the General Fund a sum annually for the purposes of assistance to local governments to reimburse them for any revenues lost by them pursuant to this act.

This bill would also provide that the amount of the proposed exemption be included in the amount of General Fund revenues used for allocating funds to school districts and community college districts.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background:

Historically, sales to the state and local governments have been subject to the sales and use tax. Other bills proposing to provide a general exemption for sales to, or purchases by, the state, school districts, governmental contractors, or other public entities have failed passage in the past, for example:

AB 4275 (Wyman) of the 1985-1986 Legislative Session would have exempted all purchases or leases of tangible personal property by any subdivision of the state and each governmental unit in the state.

AB 42 (Katz), as amended July 16, 1987, would have exempted all purchases or leases of tangible personal property by the state, the University of California, or any city, county, special district, or school district.

SB 204 (Kopp, et al.) of the 1987-1988 Legislative Session would have exempted all purchases and leases of tangible personal property by any city and county in this state.

SB 416 (Kopp) of the 1987-1988 Legislative Session, SB 140 (Kopp, et al.) of the 1989-1990 Legislative Session, and SB 1424 (Kopp) of the 1993-1994 Legislative Session would have exempted all purchases or leases of tangible personal property by the state, any city and county, special district, or school district if the purchase or lease exceeded \$1,000 and was made with a purchase order.

AB 3176 (Bradley) of the 1987-1988 Legislative Session would have exempted all purchases or leases of tangible personal property by any school district.

Three bills have been introduced this session that would provide an exemption for schools and/or students. Assembly Bill 2345 (Ducheny) contains language providing a partial sales and use tax exemption (5 percent) for sales of books to public schools, public school students under the direction of the teacher, or to the public school teacher for professional development. Assembly Bill 2348 (Ducheny) contains language providing a sales and use tax exemption for sales of college textbooks to students. Senate Bill 1701 (Johnson) contains language providing a partial sales and use tax exemption (5 percent) for purchases of textbooks by a public school. The Board has not yet had the opportunity to adopt a position on AB 2345 or AB 2348. The Board voted to support SB 1701.

COMMENTS:

1. Sponsor and Purpose. According to the author's office, who is also the sponsor of the bill, this bill is intended to relieve schools of the additional burden of paying sales tax reimbursement.

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2. Requirements for the exemption. The requirements for a school to make the purchase under a purchase order and for the aggregate sales price to equal \$1,000 or more to qualify for the exemption, could help retailers. The law provides that for the purpose of the proper administration of the sales and use tax and to prevent evasion of the sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. In order for retailers to rebut this presumption, they would be required to establish to the satisfaction of the Board that the tangible personal property sold under the provisions of this measure are not subject to the tax. Consequently, the retailer would be required to obtain and retain documentation that the tangible personal property is sold to a public or private school or community college district. The purchase order issued by the qualified purchaser could qualify as an exemption certificate, provided all the required elements are present, and therefore should be adequate documentation for the retailer to support the claimed exemption. Additionally, the requirement that the purchase equal \$1,000 or more will prevent the retailer from having to document potentially numerous sales for small amounts.

COST ESTIMATE:

Some costs would be incurred in notifying affected retailers, answering inquiries, writing appropriate regulations, and revising returns. A detailed estimate of the workload impacting data entry, verification, and return processing is pending.

REVENUE ESTIMATE:

Under current law, schools pay sales and use tax on purchases of books, supplies, office equipment, etc. This proposal would provide for a tax exemption from sales and use tax on purchases that amount to \$1,000 or more and are made with a purchase order.

Public Schools

According to the California Department of Education, for fiscal year 1997-98, public schools K-12 spent \$33.1 billion. The California Department of Education publication, "The Average Cost of a California School—1997-98," defines an average school as spending \$4.0 million annually and having 700 students. An analysis of expenditures delineated by the California Department of Education indicates that 15 percent of all expenditures could qualify for this exemption, assuming that all funds are spent within the guidelines of \$1,000 and made with a purchase order. Expenditures that qualify for the exemption under this proposal are defined as books, supplies, equipment, buses, fuel, and other instructional expenses, not including personnel salaries and employee benefits. Assuming that the 15 percent of expenditures do qualify under this proposal, the total expenditures that would have been exempt from state and local sales and use tax for 1997-98 is an estimated \$5.0 billion (\$33.1 billion x .15).

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Private Schools

Since no information about private school expenditures is available, calculating expenditures affected by this proposal is more difficult. Information collected by the Department of Education is limited to the total number of private schools and total number of students attending private schools. Assuming, however, that expenditures per student in private schools is similar to expenditures in public schools, a calculation can be made to estimate private school spending that would qualify under this proposal. Total expenditures that qualify for exemption under this proposal for each public school amounts to \$0.6 million (\$4.0 million x .15). The \$0.6 million represents average qualifying expenditures for a student body of 700 students, so the average qualifying expenditure per student is \$860 (\$0.6 million/ 700). According to the California Department of Education, there are 628,746 students in private schools. If the amount of \$860 is used as the qualifying expenditures per student, the total figure for private schools is \$541.0 million (\$860 x 628,746 students).

Community Colleges

According to the Chancellor's Office for California Community Colleges, taxable expenditures by community colleges, designated as supplies and materials, amounted to \$545.1 million for fiscal year 1997-98. Those expenditures represent 14.2 percent of total expenditures.

Public school totals:	\$5,000 million
Private school totals:	\$ 541 million
Community College totals:	<u>\$ 545 million</u>
Expenditure total:	<u>\$6,086 million</u>

Revenue Summary

The revenue impact from exempting from the state and local sales and use tax any purchase made by a school K-12, public or private, or community college district, as long as the purchase is over \$1,000 and made with a purchase order, would result in the following revenue loss:

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Revenue Effect
(in millions)

	<u>Public</u>	<u>Private</u>	<u>Comm. College</u>	<u>Total</u>
State loss (5%)	\$250	\$27	\$27	\$304
Local loss (2.25%)	\$113	\$12	\$12	\$137
Transit loss (0.67%)	<u>\$ 34</u>	<u>\$ 7</u>	<u>\$ 7</u>	<u>\$ 48</u>
Total loss	<u>\$397</u>	<u>\$46</u>	<u>\$46</u>	<u>\$489</u>

The estimated amounts to reimburse local agencies would be as follows:

<u>Fund</u>	<u>Amount</u>
Local Public Safety Fund	\$ 30.4 million
Local Revenue Fund	\$ 30.4 million
Local Sales and Use Tax	\$ 76.1 million
Transactions and Use Tax	<u>\$ 48.0 million</u>
Total	<u>\$184.9 million</u>

Qualifying Remarks

This estimate assumes that schools would structure their taxable purchases to qualify for this exemption. Therefore, the estimate is overstated to the extent that schools will not always meet the \$1,000 minimum.

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